

**ASSEMBLY BILL**

**No. 1756**

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**Introduced by Assembly Member Skinner  
(Coauthors: Assembly Members Brown, Jones-Sawyer, and Weber)**

February 14, 2014

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An act to amend Section 1203.45 of the Penal Code, and to amend Section 903.3 of the Welfare and Institutions Code, relating to court records.

LEGISLATIVE COUNSEL'S DIGEST

AB 1756, as introduced, Skinner. Court records: sealing and destruction.

(1) Existing law authorizes a person to petition the court for an order sealing the record of conviction and other official records in a case in which that person was under 18 years of age at the time of commission of a misdemeanor and is eligible for, or has previously received, specified relief. Existing law authorizes that person to be required to reimburse the court, the county, or any city for the actual cost of services rendered, as specified.

This bill would only make persons 26 years of age or older liable to reimburse the court, the county, or any city for the cost of services.

(2) Existing law authorizes, except as specified, in a case in which a petition has been filed with a juvenile court to commence proceedings to adjudge a person a ward of the court, in a case in which a person is cited to appear before a probation officer or is taken before a probation officer pursuant to a specified provision of law, or in a case in which a minor is taken before an officer of a law enforcement agency, the person or the county probation officer to petition the court for the sealing of arrest records and records relating to the person's case in the custody

of the juvenile court and the probation officer and any other agencies, including law enforcement agencies and public officials as the petitioner alleges to have custody of the records. Existing law authorizes the petition to be filed 5 years or more after the jurisdiction of the juvenile court has terminated or, if no petition was filed, 5 years or more after the person was cited to appear before a probation officer or was taken before a probation officer or law enforcement officer, or, in any case, at any time after the person reaches 18 years of age.

Existing law makes a father, mother, spouse, or other person liable for the support of a minor person, the person himself or herself if he or she is an adult, or the estates of those persons, unless indigent, liable for the cost to the county and court for any investigation related to the sealing and for the sealing of any juvenile court or arrest records pursuant to the above-mentioned provisions. Existing law also authorizes those persons to be required to reimburse the court, county, or a city for the actual cost of services rendered, as specified.

This bill would only require persons 26 years of age or older who petitions for an order sealing his or her record, pursuant to specified provisions, to be liable for the investigative costs and to reimburse the costs of services rendered.

(3) By permitting certain persons to receive services from local agencies free of charge, the bill would increase the level of service provided by those local agencies, thereby imposing a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: yes.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 1203.45 of the Penal Code is amended  
2 to read:  
3 1203.45. (a) In a case in which a person was under ~~the age of~~  
4 18 years *of age* at the time of commission of a misdemeanor and

1 is eligible for, or has previously received, the relief provided by  
2 Section 1203.4 or 1203.4a, that person, in a proceeding under  
3 Section 1203.4 or 1203.4a, or a separate proceeding, may petition  
4 the court for an order sealing the record of conviction and other  
5 official records in the case, including records of arrests resulting  
6 in the criminal proceeding and records relating to other offenses  
7 charged in the accusatory pleading, whether defendant was  
8 acquitted or charges were dismissed. If the court finds that the  
9 person was under ~~the age of~~ 18 *years of age* at the time of the  
10 commission of the misdemeanor, and is eligible for relief under  
11 Section 1203.4 or 1203.4a or has previously received that relief,  
12 it may issue its order granting the relief prayed for. Thereafter the  
13 conviction, arrest, or other proceeding shall be deemed not to have  
14 occurred, and the petitioner may answer accordingly any question  
15 relating to their occurrence.

16 (b) This section applies to convictions that occurred before, as  
17 well as those that occur after, the effective date of this section.

18 (c) This section shall not apply to offenses for which registration  
19 is required under Section 290, to violations of Division 10  
20 (commencing with Section 11000) of the Health and Safety Code,  
21 or to misdemeanor violations of the Vehicle Code relating to  
22 operation of a vehicle or of a local ordinance relating to operation,  
23 standing, stopping, or parking of a motor vehicle.

24 (d) This section does not apply to a person convicted of more  
25 than one offense, whether the second or additional convictions  
26 occurred in the same action in which the conviction as to which  
27 relief is sought occurred or in another action, except in the  
28 following cases:

29 (1) One of the offenses includes the other or others.

30 (2) The other conviction or convictions were for the following:

31 (A) Misdemeanor violations of Chapters 1 (commencing with  
32 Section 21000) to 9 (commencing with Section 22500), inclusive,  
33 Chapter 12 (commencing with Section 23100), or Chapter 13  
34 (commencing with Section 23250) of Division 11 of the Vehicle  
35 Code, other than Section 23103, 23104, 23105, 23152, 23153, or  
36 23220.

37 (B) Violation of a local ordinance relating to the operation,  
38 stopping, standing, or parking of a motor vehicle.

39 (3) The other conviction or convictions consisted of any  
40 combination of paragraphs (1) and (2).

1 (e) This section shall apply in a case in which a person was  
2 under ~~the age of~~ *21 years of age* at the time of the commission of  
3 an offense as to which this section is made applicable if that offense  
4 was committed prior to March 7, 1973.

5 (f) In an action or proceeding based upon defamation, a court,  
6 upon a showing of good cause, may order the records sealed under  
7 this section to be opened and admitted into evidence. The records  
8 shall be confidential and shall be available for inspection only by  
9 the court, jury, parties, counsel for the parties, and any other person  
10 who is authorized by the court to inspect them. Upon the judgment  
11 in the action or proceeding becoming final, the court shall order  
12 the records sealed.

13 (g) A person who *is 26 years of age or older and* petitions for  
14 an order sealing a record under this section may be required to  
15 reimburse the court for the actual cost of services rendered, whether  
16 or not the petition is granted and the records are sealed or  
17 expunged, at a rate to be determined by the court, not to exceed  
18 one hundred fifty dollars (\$150), and to reimburse the county for  
19 the actual cost of services rendered, whether or not the petition is  
20 granted and the records are sealed or expunged, at a rate to be  
21 determined by the county board of supervisors, not to exceed one  
22 hundred fifty dollars (\$150), and to reimburse any city for the  
23 actual cost of services rendered, whether or not the petition is  
24 granted and the records are sealed or expunged, at a rate to be  
25 determined by the city council, not to exceed one hundred fifty  
26 dollars (\$150). Ability to make this reimbursement shall be  
27 determined by the court using the standards set forth in paragraph  
28 (2) of subdivision (g) of Section 987.8 and shall not be a  
29 prerequisite to a person’s eligibility under this section. The court  
30 may order reimbursement in a case in which the petitioner appears  
31 to have the ability to pay, without undue hardship, all or any portion  
32 of the cost for services established pursuant to this subdivision.

33 SEC. 2. Section 903.3 of the Welfare and Institutions Code is  
34 amended to read:

35 903.3. (a) ~~The father, mother, spouse, or other person liable~~  
36 ~~for the support of a minor person, the person himself or herself if~~  
37 ~~he or she is an adult, or the estates of those persons~~ *A person who*  
38 *is 26 years of age or older* shall, unless indigent, be liable for the  
39 cost to the county and court for any investigation related to the  
40 sealing and for the sealing of any juvenile court or arrest records

1 pursuant to Section 781 pertaining to that person. ~~The liability of~~  
2 ~~those persons and estates shall be a joint and several liability.~~

3 (b) In the event a petition is filed for an order sealing a record,  
4 ~~the father, mother, spouse, or other person liable for the support~~  
5 ~~of a minor, that person if he or she is an adult, or the estate of that~~  
6 ~~person, a person who is 26 years of age or older~~ may be required  
7 to reimburse the county and court for the actual cost of services  
8 rendered, whether or not the petition is granted and the records are  
9 sealed or expunged, at a rate to be determined by the county board  
10 of supervisors for the county and by the court for the court, not to  
11 exceed one hundred fifty dollars (\$150). Ability to make this  
12 reimbursement shall be determined by the court using the standards  
13 set forth in paragraph (2) of subdivision (g) of Section 987.8 *of*  
14 *the Penal Code* and shall not be a prerequisite to a person's  
15 eligibility under this section. The court may order reimbursement  
16 in any case in which the petitioner appears to have the ability to  
17 pay, without undue hardship, all or any portion of the cost for  
18 services.

19 (c) Notwithstanding subdivision (a), the father, mother, spouse,  
20 or other person liable for the support of the minor, the person  
21 himself or herself if he or she is an adult, the estate of that person,  
22 or the estate of the minor, shall not be liable for the costs described  
23 in this section if a petition to declare the minor a dependent child  
24 of the court pursuant to Section 300 is dismissed at or before the  
25 jurisdictional hearing.

26 (d) Any determination of amount made by a court under this  
27 section shall be valid only if either (1) made under procedures  
28 adopted by the Judicial Council or (2) approved by the Judicial  
29 Council.

30 SEC. 3. If the Commission on State Mandates determines that  
31 this act contains costs mandated by the state, reimbursement to  
32 local agencies and school districts for those costs shall be made  
33 pursuant to Part 7 (commencing with Section 17500) of Division  
34 4 of Title 2 of the Government Code.